

FILE

-C 26 2000

Rodney Eugene Smith  
Secured Party/Superior Claimant  
C/O HC 77, Box 546  
Ballard, West Virginia, [24918]

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
at BLUEFIELD

1 '00-1218

Rodney Eugene Smith	)	
	)	
	)	R.I.C.O. PUBLIC POLICY 18 U.S.C. &
	)	1964(a) PETITION FOR DECLARATORY
v	)	AND INJUNCTIVE RELIEF PUBLIC POLICY
	)	28 U.S.C. & 1331, 2201, and 2202
REBECCA BETTS	)	
DARRELL V. MCGRAW JR.	)	
KAREN L. BLEATTER	)	
MAURICE G. TAYLOR	)	
MARY FEINBERG	)	
JAMES E. CRIST	)	
JAMES D. HARPER	)	
JEFF S. SANDY	)	
FRANK KLEPADLO	)	
STEPHEN DEMPSEY	)	
JASON L. GANDY	)	
GARY EDGELL	)	

FOR AND ON THE RECORD, TAKE MANDATORY  
JUDICIAL NOTICE OF THE FOLLOWING

FOR THE RECORD COMES NOW Rodney Eugene Smith declaring the status of secured party/superior claimant in this action. See attached UCC-1, NOTICE OF DENIAL OF CORPORATION EXISTENCE, and NOTICE OF NON-SUBORDINATION. Rodney is spelled capital R, small o, d, n e, y. Eugene is spelled capital E, small u, g, e, n, e. Smith is spelled capital S, small m, i, t, h.

RODNEY EUGENE SMITH aka RODNEY E. SMITH, is debtor/strawman to secured party Rodney Eugene Smith. RODNEY EUGENE SMITH is the

defendant in Criminal cases 1:00-M-0097 and 1:00-M-0098. Flesh and blood Rodney Eugene Smith was arrested and incarcerated and is a victim of fraud and false arrest.

#### **STATEMENT OF THE CASE**

1. The Secured Party/Superior Claimant and his wife have been defrauded of property and rights under the American Constitution by incompetent judges, attorneys, other agents of the United States government, the Attorney General of the STATE OF WEST VIRGINIA, and the commander of the WEST VIRGINIA STATE POLICE, and obstruction of justice, public policy 18 U.S.C., section 1503, mail and wire fraud, public policy 18 U.S.C., sections 1341 and 1343, conspiracy in violation of public policy 18 U.S.C., section 1962.

2. This action is directed against individual judges, United States Attorneys, Internal Revenue Service agents, Bureau of Alcohol, Tobacco, and Firearms agents, a Federal Bureau of Investigation agent, a STATE OF WEST VIRGINIA Attorney General, and Commander of the STATE OF WEST VIRGINIA STATE POLICE

#### **JURISDICTION**

3. Jurisdiction of this Court is invoked pursuant to:  
public policy 18 U.S.C., section 1964(a) - (a) The district courts of the United States shall have jurisdiction to prevent and restrain violation of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise imposing reasonable restriction on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce or ordering dissolution or reorganization of any enterprise, making due provision

for the rights of innocent persons.

4. Violation of public policy 18 U.S.C., section 1962 as follows:

(b) It shall be unlawful for any person through a pattern of racketeering activity...to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate commerce or foreign commerce.

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity...

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsections (a), (b), or (c) of this section.

5. Public policy 28 U.S.C. section 1331, the general federal question statute.

6. Public policy 28. U.S.C., section 2201 and 2202, the federal declaratory and injunctive relief statutes. Under the Declaratory Judgment Act, public policy 28 U.S.C., section 2201, Plaintiff may seek declaratory relief before actual harm occurs if he has a reasonable apprehension of that harm occurring. As the Tenth Circuit Court of Appeals observed in ANR Pipeline v Corporation Commission of Oklahoma, 860 F2d 1571, 1578 (10th Cir 1988):

Parties need not...await the imposition of penalties under an unconstitutional enactment in order to assert their constitutional claim for an injunction in federal court. Once the gun has been cocked and aimed and the finger is on the trigger, it is not necessary to wait until the bullet strikes to invoke the Declaratory Relief Judgment Act.

7. Public policy 18 U.S.C., section 3332(a), the special

grand jury statute that mandates presentation of secured party/superior claimant's evidence to a special grand jury.

"Where...constitutional intent is clear, our sole function is to enforce the statute according to its terms." Pa. Dept. of Public Welfare v. Davenport, 110 S.Ct. 2126, 2133-2134 (1990).

"No man in this country is so high that he is above the law. All officers of the government...are bound to obey it." Davis v. Passman, 99 S.Ct. 2264, 2277 (1979), Butz v. Economou, 98 S.Ct. 2894, 29120 (1978). No person, even a President, is above the law. United States v. Fromme, 405 F.Supp. 578 (E.D. Ca. 1975).

#### PARTIES

8. Flesh and blood, Rodney Eugene Smith is the secured party/superior claimant of RODNEY EUGENE SMITH, debtor/strawman.

9. Rebecca Betts, is a United States Attorney with a mailing location of P.O. Box 1713, Charleston, WV, 25332.

10. Darrel V. McGraw, Jr., is a Attorney General for THE STATE OF WEST VIRGINIA, State Capitol, Room E-26, Charleston, WV, 25305.

11. KAREN L. BLEATTLE, is an Assistant United States Attorney with a mailing location of P.O. Box 1713, Charleston, WV, 25332.

12. Defendant MAURICE G. TAYLOR, JR is a United States Magistrate Judge for the 4th Circuit with a business address of 300 Virginia Street East, Charleston, WV, 25301.

13. Defendant MARY FEINBERG is a United States District Court Judge for the 4th Circuit with a business address of 300 Virginia Street East, Charleston, WV, 25301.

14. JAMES E. CRIST is an agent for the Bureau of Alcohol,

Tobacco, and Firearms with an unknown business address at this time.

15. James D. Harper is a special agent for the Federal Bureau of Investigation with a business address of P.O. Box 1956, Huntington, WV, 25720.

16. Jeff S. Sandy is a Supervisory Special Agent, IRS-CID with an unknown business address at this time.

17. FRANK KLEPADLE is a special agent of the Internal Revenue Service with an unknown address.

18. STEPHEN DEMPSEY is presumed to be a agent of the Internal Revenue Service with an unknown address.

19. JASON L. GANDY is an Internal Revenue Agent with an unknown address.

20. GARY EDGELL is commander of the WEST VIRGINIA STATE POLICE whose mailing location is 725 Jefferson Road, South Charleston, WV, 25309.

#### FACTS

21. Secured Party Rodney Eugene Smith was arrested on December 7th, 2000 in stead of RODNEY EUGENE SMITH which is the name the arrest warrant and criminal complaints called for. The arrest warrant had no affidavit affixed and there was no charging instrument from the prosecuting attorney. See attached UCC-1 showing Rodney Eugene Smith to be the secured party for items that were removed from secured parties private property and secured party for debtor RODNEY E. SMITH.

22. The Criminal Complaints allege RODNEY EUGENE SMITH was in

violation of 18 U.S.C., sections 514, 922(g) and 924(a).

23. Rodney Eugene Smith noticed Darrell V. McGraw, Jr., dba West Virginia Attorney General; by registered mail, and a copy was sent to Rebecca Betts, dba United States Attorney for the Southern District of West Virginia; and Colonel Gary Edgell, commander of the WEST VIRGINIA STATE POLICE, of a 'NOTICE OF NON-SUBORDINATION', copies of which were seized in raid of secured party/superior claimant's private property by the IRS and BATF agents.

23A. On the Search Warrant, there was no affidavit attached and furthermore, there was no mention of specific crimes which necessitated the search.

#### LEGAL CLAIMS

24. Public Policy Federal Rule of Criminal Procedure 12(b)(2) is quite clear:

Rule 12. Pleadings and Motions Before Trial; Defenses and Objections

(b) Pretrial Motions. Any defense, objection, or request which is capable of determination without the trial of the general issue may be raised before trial by motion. Motions may be written or oral at the discretion of the judge. The following must be raised prior to trial:

(1) Defenses and objections based on defects in the institution of the prosecution; or

(2) Defenses and objections based on defects in the indictment or information (other than that it fails to show jurisdiction in the court or to charge an offense which objections shall be noticed by the court at any time during the pendency of the proceedings):

25. The word 'shall' means mandatory. The Supreme Court has found 'shall' to be 'the language of command.' *Escoe v. Zerbst*, 295 U.S. 490, 493, 55 S.Ct. 818, 820 (1935).

26. The word 'shall' generally indicates a command that admits of no discretion of the part of the person instructed to carry out the directive. Association of Civilian Technicians v FLRA, 22 F3d 1150, 1153 (D.C. 1994).

Shall. As used in statutes...this word is generally imperative or mandatory. Black's Law Dictionary 1375, 6th Ed.

27. "[N]oticed by the court at any time during the pendency of the proceedings" means anytime, not only when the Court deems it 'timely'. A federal judge may not govern by whim, though it appears to be a common practice.

28. It is apparent that the prosecuting attorney is attempting to subvert flesh and blood Rodney Eugene Smith's imprescriptible right to a grand jury hearing and conduct a notorious Star Chamber hearing.

29. The most objectionable of the Star Chamber's practices was its asserted prerogative to disregard the common law rules of criminal procedure when the occasion demanded. A History of English Law, 163, 165, 180-197 (2d ed. 1937); Radin, The Right to a Public Trial, 6 Temp. L.W. 381, 386-388; Washburn, The Court of Star Chamber, 12 AM. L. Rev. 21, 25-31.

30. Is the prosecuting attorney attempting to sidestep the issue of whether or not the Congress have the authority to change the mode of proceeding in the operation of the federal grand jury from what the authors of the Fifth Amendment intended? United States Supreme Court precedent indicates that neither Congress nor the federal courts or prosecuting attorneys have such authority.

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Miranda v Arizona, 86 S.Ct. 1602, 1636 (1966).

31. Historically, the function of a federal judge has been to instruct grand jurors in what their duties and responsibilities were.

"Its historic office has been to provide a shield against arbitrary or oppressive action, by insuring that serious criminal accusations will be brought only upon the considered judgment of a representative body of citizens acting under oath and under judicial instruction and guidance. United States v Mandujano, 96 S.Ct. 1768 (1976).

32. Under the common law the grand jury was instructed by a charge from the judge who sat upon the bench. Indictments were then preferred to them in the name of the king, but at the suit of any private prosecutor. Blackstone's Commentaries, Volume 5, page 302 (Tucker Edition 1803).

33. That this practice in United States courts for generations after the Fifth Amendment was enacted is also easily seen. The court is the only proper source from which a grand jury may obtain advice as to question of law. No other person has a right to give a grand jury an opinion on questions of law, which affect the rights of individuals or of society. United States v Kilpatrick, 16 F. 765, 770 (D.C.W.D.N.C. 1883).

34. An early example of the judge instructing grand jurors in the law may be found in Respublica v Shaffer, 1 U.S. (1 Dall) 236 (O.T. Phila. 1788), quoted in United States v Williams, 112 S.Ct. 1735, 1744 (1992).

35. That it was up to the judge, under the practice known to



the common law as understood by the framers of the Fifth Amendment, to instruct the grand jury as to its duties and responsibilities, was common knowledge in the federal courts of the nineteenth century. See, e.g., Charge To The Grand Jury (several cases with same title), Fed. Cas. No. 18,255 (Cir.Ct.D.Calif. 1872), 18,248 (C.Ct.D.W.Va. 1868), 18,251 (D.C.D. Oregon 1869), 18,257 (C.Ct.D. Maryland 1836), 18,258 (C.Ct.W.D.N.C. 1875) (Had Congress the authority to pass this Act?).

36. It was also well known that additional instructions to the grand jury also had to be given by the judge. United States v Watkins, Fed. Cas. No. 16,649 (C.Ct.D.C. 1829).

37. This was also well known at the beginning of the twentieth century. The grand jury is a body known to the common law...Blackstone (Volume 4, page 303).

38. These grand juries are previously instructed in the articles of their inquiry, by a charge from the judge who presides upon the bench. Beaver v Henkel, 24 S.Ct. 605, 607 (1904).

39. A federal judge in the nineteenth century remarked, "The moment the executive is allowed to control the actions of the courts in the administration of criminal justice, their independence is gone." In re-Miller, Fed. Cas. No. 9,552 (C.Ct.D.Ind. 1878).

40. That the judiciary, the Congress, and the Executive Branch have in fact reshaped the grand jury as an institution is a fact known to almost all legal scholars. See e.g., Schwartz, Demythologizing the Grand Jury, 10 Amer. Cr. L. Rev. 701 (1972) and

Brown, Fifth Amendment Fraud, Media Bypass Magazine.

41. Perhaps the prosecuting attorney or a judge believes that an Assistant United States attorney instructing the grand jury does not violate the separation of powers doctrine. Such an assumption is not supported by any authority whatsoever.

42. Such a thought that a member of the Executive Branch can declare what the law is (a strictly judicial function, see e.g. United States v Lopez, 514 U.S. 642, 115 S.Ct. 1624, 131 L.Ed.2d 626, 642 (1995); Ogden v Blackledge, 2 Cranch (6 U.S.) 272, 277, 2 L.Ed. 276 (1804)) must be supported by some authority--Constitutional statutory, or even published decisions--or such reasoning is ultra virus and invalid.

43. Rodney Eugene Smith asserts that public policy Federal Rule of Criminal Procedure 6(d) and public policy 28 U.S.C., section 515(a) are unconstitutional, both as written and as might possibly be applied in this case. Under the original intent of the authors of the indictment by grand jury clause, government attorneys were not allowed to attend and manipulate grand juries. Even the public policy 28 U.S.C., section 515(a), contains no authority vesting members of the Executive Branch to instruct grand jurors in the law.

44. Where did Congress get the authority to change the mode of proceeding in the operation of the federal grand jury from what the authors of the Fifth Amendment intended?

45. Public Policy Rule 6 governs the grand jury proceedings and public policy Rule 6(b) governs "Objections to Grand Jury and

to Grand Jurors". However grand jury members names are not revealed. Therefore, how may a grand juror's legal qualifications be challenged upon the finding of the indictment when no one knows his or her names. How does someone survive a prosecution based on a prosecutor's whim?

#### INDICTMENT

46. "[W]ithout some objective evidence demonstrating a scheme to defraud, all promotional schemes to make money, even if 'sleazy' or 'shrewd' would be subject to prosecution on the mere whim of the prosecutor. More is required under our criminal law." United States v Goodman, 984 F.2d, 235, 240 (8th Cir. 1993).

47. For a case in which the district court addressed the issue of an insufficient indictment, see United States v Knowles, 2 F.Supp.2d 1135, 1139-1141 (E.D. Wisc. 1998) ("Federal crimes and the Sentencing Guidelines establish substantial penalties; a defendant should not face this exposure by a short-hand method of charging,: id at 1141).

#### Bribing of Witnesses and the Singleton Decision

48. "Oh what a tangled web we weave, When first we practice to deceive!" Sir Walter Scott, Marmion, Canto vi. Stanza 17 (1808) (quoted by defendant circuit judge Carlos F. Lucero in Marx v Schnuick Markets, Inc., 76 F.3d 324 note 2 (10th Cir), cert. denied, 116 S.Ct. 2552 (1996).

49. In United States v Singleton, 144 F.3d 1343 (10th Cir. 1998) a deciding panel of the Tenth Circuit Court of Appeals attempted to halt the pernicious practice of prosecutors routinely bribing witnesses for their testimony. An en banc court reversed in United States v Singleton, 165 F.3d 1297 (10th Cir. 1999).

50. The fallout from the first Singleton decision and the political reaction from members of the federal judiciary, blinded to their duties and responsibilities by bias in favor of government misconduct in order to "insure convictions", makes interesting reading. It gives rise to some self-evident observations from our history, our Constitution, and our criminal law. A typical example of such a reaction:

Unlike the Singleton court, it is evident to this Court that Congress did not intend for section 201(c)(2) to be used when prosecutors offer lenity for a witness' truthful testimony. To interpret section 201(c)(2) in any other way would apply shackles to the government in its pursuit to enforce the law. See United States v Hammer, 25 F.Supp.2d 518, 535-36 (M.D.Pa. 1998) (noting that the Singleton opinion makes a criminal out of nearly every federal prosecutor, accomplices out of district judges, suppresses highly relevant evidence and cripples the enforcement of federal criminal law).

51. What is wrong with the reasoning is as follows:

A. "[I]t is evident to this Court..." Id. How? Where is the legislative history of the statute mentioned? What did Congress intend in the words of Congress itself?

B. "To interpret section 201(c)(2) in any other way would apply shackles to the government in its pursuit to enforce the law." Id. Carrying this absurd reasoning to its logical conclusion, this is exactly what the Bill of Rights was supposed to do. Should we repeal the Bill of Rights also in order to remove the "shackles" to the government in its pursuit to enforce the law? If government cannot restrain itself, who or what will?

C. "[T]he Singleton opinion makes a criminal out of nearly every federal prosecutor, accomplices out of district judges..."

Id. On the contrary, the original Singleton decision makes a criminal out of no one. The statutes enacted by Congress (before they were written by the judiciary) are what criminalized the conduct of federal prosecutors and judges.

#### **Judges**

52. Public policy 18 U.S.C., section 3. Accessory after the fact

Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

Except as otherwise expressly provided by any Act of Congress, an accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half the maximum fine prescribed for the punishment of the principal, or both; or if the principal is punishable by life imprisonment or death, the accessory shall be imprisoned not more than 15 years.

#### **Federal Prosecutors**

53. Public Policy 18 U.S.C., section 1512. Tampering with a witness, victim, or an informant

(b) Whoever knowingly use intimidation or physical force, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to

(1) influence, delay, or prevent the testimony of any person in an official proceeding;

54. See also public policy 18 U.S.C., section 1622 (subornation of perjury) and 18 U.S.C., section 1001 (false statements generally)

Instances sometimes occur in which ministerial officers take such liberties, in endeavoring to discover and punish offenders, as are even more criminal than the offenses they seek to punish. Cooley, Constitutional

Limitations, page 306, n.2 (DaCapo Press 1972).

55. "Sometimes" has, under modern practice become all the time. A trickle of injustice has, in the federal courts, become Noah's Flood.

56. One of the men who made our laws (as opposed to judges who remake our laws) described the same behavior exhibited by the defendant federal judge in this action generations ago:

Mr. O'CONNOR of New York. ,...I am against the bills to create additional Federal judges, having been consistently against such bills, because I am a Democrat. Being a Democrat, I cannot reconcile my Democratic principles with voting to increase the Federal judiciary when I recall the tyranny of its past and its deplorable present, its interference and usurpation of State and local rights. Nor can I understand how any Democrats can vote for any bill to augment the Federal judiciary. I welcome an opportunity to vote to abolish it...

Mr. BACHMANN. Do I understand the gentleman is opposed to all the judge bills?

Mr. O'CONNOR of New York. Yes.

Mr. BACHMANN. Is the gentleman opposed also to filling the place of Judge Winslow, who resigned in the southern district of New York, and where a successor was stated, in the report of the judicial conference, signed by the late Judge Taft, to be badly needed in the southern district of New York?

Mr. O'CONNOR of New York. Yes, sir. I am opposed to that also. I would rather permit that vacancy to stand as a monument to remind us of the corruption that went on while it was filled, and is still going on in the Federal courts.

Congressional Record, June 3, 1930, Volume 72, page 9980.

Mr. O'CONNOR of New York. It has been pointed out that this bill does not pertain only to prohibition cases but to all cases.

Mr. LAGUARDIA. Yes; prohibition is used as the bait. Do not consider this question as one of prohibition at all. Oh, gentlemen, everywhere in history where a privileged

class or cruel oppressors have been able to bring about legislation letting down or lessening the protection to and rights of the individual thee has been created a judicial system of tyrants becoming more and more oppressive to the point of becoming unbearable which then causes a breakdown of the whole form of government.

57. The problem with the en banc Singleton decision is that the court committed fraud upon itself and the public in order to do so. Fraud vitiates all judgments.

[F]raud vitiates everything which it touches, and destroys the very thing which it was devised to support; the law does not temporize with trickery or duplicity. King v Horizon Corp, 701 F2d 1313 (10th Cir 1983)

58. Worse, the dishonest decision in the en banc ruling illustrates nothing more than an obstruction of justice conspiracy, in violation of public policy 18 U.S.C., section 1503, one in a series of predicate act under RICO.

59. A comparison of the statements in the en banc Singleton ruling with those of the United States Supreme Court and other decisions illustrates the dishonesty and fraud which may be perpetrated by the defendants as nothing else can.

60. The statute at issue reads as follows:

Public Policy 18 U.S.C., section 201. Bribery of public officials and witnesses

(c) Whoever-

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom:

shall be fined under this title or imprisoned for not more than two years or both.

61. The dishonesty of the decision is discernible as follows, illustrating like nothing else can, why so many Americans are 'fed up' with 'activist' federal judges.

62. Singleton, 165 F.3d at 1298: "We now hold 18 U.S.C., section 201(c)(2) does not apply to the United States or an Assistant United States Attorney functioning within the official scope of the office."

After many years of public service at the national capital, and after a somewhat close observation of the conduct of public affairs, I am impelled to say that there is abroad in our land a most harmful tendency to bring about the amending of constitutions and legislative enactments by means alone of judicial construction. Standard Oil Co. v United States, 31 S.Ct. 502, 533 (1910) (Justice Harlan, concurring in part and dissenting in part).

63. Singleton, 165 F.3d at 1299: "Viewing the statute on its face, it is apparent the dispute revolves about the word 'whoever'. Indeed, the significance of the remaining parts of the statute is not seriously controverted. However, like many words chosen by the legislative branch to convey its intent, this one word evokes more meaning than an innocent first reading of it would portend. "As correctly argued by Ms. Singleton, 'whoever' is a broad term which by its ordinary definition would exclude no one."

64. "When I use a word," Humpty Dumpty said, in rather a scornful tone, "it means just what I choose it to mean--neither more nor less."

"The question is," said Alice, "whether you can make words mean so many different things."

"The question is," said Humpty Dumpty, "which is to be master--that's all."

The Annotated Alice: Alice's Adventures in Wonderland & Through The Looking Glass by Lewis Carroll 269 (Martin Gardner 1960)

65. Alice-in-Wonderland was a world in which words had no meaning. Welch v United States, 90 S.Ct. 1792, 1803 (1970).



The bending of the meaning of words is symptomatic of a diseased institution, with the angle of linguistic deflection indicating the seriousness of the cancer within. The Spanish Inquisition represented an advanced case. Rawson's Dictionary of Euphemisms and Other Doubletalk, Revised Ed., page 35 (1995).

A statute is supposed to be construed according to its plain meaning. Schuylsterman v United States, 63 F.3d 986, 989 (10th Cir 1995).

66. Singleton, 165 F.3d at 1299-1300: "Only officers of the Department of Justice or the United States Attorney can represent the United States in the prosecution of a criminal case." 28 U.S.C., sections 516, 547; United States v Navarro, 959 F.Supp 1273, 1277 (E.D. Cal. 1997), rev'd on other grounds, 160 F.3d 1254 (9th Cir. 1998). Indeed, a federal court cannot even assert jurisdiction over a criminal case unless it is filed and prosecuted by the United States Attorney or a properly appointed assistant. See United States v Providence Journal Co., 485 U.S. 693, 699-708, 108 S.Ct. 1502, 99 L.Ed.2d 785 (1988)(dismissing petition for certiorari for lack of jurisdiction where the petition was filed by a government lawyer acting without the authority to do so); United States v Durham, 941 F.2d 886, 892 (9th Cir. 1991) (whether Special AUSA had been properly appointed went to jurisdiction to the district court)."

67. This was not true under the original intent of the authors of the indictment by grand jury clause of the Fifth Amendment, U.S. Constitution.

This Court's constitutional decisions are grounded upon fundamental principles whose content does not change dramatically from year to year, but whose meanings are altered slowly and subtly as generation succeeds generation. Yates v Aiken, 108 S.Ct., 534, 537 (1988)

The Constitution is a written instrument. As such its meaning does not alter. That which it meant when adopted, it means now. South Carolina v United States, 26 S.Ct., 110, 111 (1905).

Which is it-judicial construction or original intent?

68. Singleton, 165 F.3d at 1300: "We thus infer in criminal cases that an Assistant United States Attorney, acting within the scope of authority conferred upon that office, is the alter ego of the United States exercising its sovereign power of prosecution. Hence, in the attempt to apply section 201(c)(2), the United States and Assistant United States Attorney cannot be separated."

69. We cannot press statutory construction to the point of disingenuous evasion. Seminole Tribe of Florida v Florida, 116 S.Ct. 1114, 1124 note 9 (1996)(from a 1933 Benjamin Cardozo quote).

70. Singleton, 165 F.3d at 1300: "Put into proper context, then, the defendant's argument is: in a criminal prosecution, the word 'whoever' in the statute includes within its scope the United States acting in its sovereign capacity. Extending that premise to its logical conclusion, the defendant implies Congress must have intended to subject the United States to the provisions of section 201(C)(2), and, consequently, like any other violator, to criminal prosecution. Reduced to this logical conclusion, the basic argument of the defendant is patently absurd."

71. [O]nly Congress has the authority to revise its statutes. United States v Branham, 97 F3D 835, 849 (6th Cir. 1996).

72. The majority en banc panel has confused the United States with an individual prosecutor. This panel was then contradicted by "one of their own" in a concurring opinion:

Further, I note that although I believe the majority is correct on the tradition argument, I do not see the statute as construed by the dissent as patently absurd. Singleton, 165 F3d at 1303.

73. Singleton, 165 F.3d at 1300: "Although Congress may, by legislative act, add to or redefine the meaning of any word, it did not do so in the passage of section 201(c)(2). Therefore, we must presume it intended to employ the common meaning of the word. The word 'whoever' connotes a being. See Webster's Third New International Dictionary 2611 (1993) (defining 'whoever' as 'whatever person: any person').

74. The potential consequences of rewriting history were described half a century ago by George Orwell in 1984. A major theme of the book is the 'mutability of the past'. There is no such thing as honest history anymore; what is done can always be undone. The job the main character, Winston, at the Ministry of Truth is to rewrite old newspaper articles so that every Party prediction is vindicated.

"[I]f all others accepted the lie which the Party imposed-if all records told the same tale," Winston reflects, "then the lie passed into history and became truth."

Who controls the past controls the future: who controls the present controls the past. George Orwell, 1984, (1949).

75. Judicial rewriting of history to fit judicial activist desires has long been recognized by legal scholars:

On occasion, however, the Court has invoked a rather distinct historical technique, which deserve some examination here. The resort to the extended essay in constitutional history usually of what should be called the 'law-office' variety.

By 'law-office' history, is meant the selection of data favorable to the position being advanced without regard to or concern for contradictory data or proper evaluation of the relevance of the data proffered. See Kelly, *Clio and the Court: An Illicit Love Affair*, *Supreme Court Review* 119, 122 (1965).

76. This type of behavior on the part of the judges, rewriting laws and history in order to arrive at a predetermined result, was recognized by other members of the legal profession even before our Declaration of Independence.

[T]he office of a Judge (as Cook well observes) is *jus dicere*, not *jus dare*; not to make any Laws by strains of wit, or forced Interpretations; but plainly and impartially to declare the Law already established. The *English-mans Rights*, Sir John Hawles, page 10 (1680).

77. Supposedly the courts follow the doctrine of 'stare decisis', to abide by decided decisions. As Justice William Rehnquist observed, "[N]o amount of repetition of historical errors can make the errors true." *Wallace v Jaffree*, 105 S.Ct. 2479, 2516 (1985). Stare decisis may bind courts as to matter of law, but it cannot bind them to a matter of history. *Id.* at 2512.

78. Whether an accused has the right to waive jury trial is one matter. Whether Congress has the right to change the mode of proceeding from what the authors of the Constitution intended in 1789 and 1791 is another matter entirely.

It is not without significance, that most of the provisions of the Bill of Rights are procedural. It is procedure that spells much of the difference between rule by law and rule by whim or caprice. Steadfast adherence to strict procedural safeguards is our main assurance that there will be equal justice under law. *Joint Anti-Fascist Committee v McGrath*, 341 U.S.123, 179 (1951) (Douglas concurring).

79. A ten part series of articles published in the Pittsburgh

Post-Gazette, November 22 to December 13, 1998, titled Win At All Costs, written by Bill Moushey exposes the numerous abuses by federal prosecutors unchecked by federal judges.

Those concerns center on maintaining the integrity, fairness, and credibility of our system of criminal justice. Criminal judgments are accepted by society at large, and even by individual defendants, only because our system of justice is painstakingly fair. Singleton, 165 F.3d at 1309 (Kelly Dissenting).

80. Criminal judgments are accepted by society at large merely because (a) society at large doesn't know any better, and (b) most people really don't care what happens to their fellow citizens. Criminal judgments, no matter how corrupt or unconstitutional, are accepted by individual defendants because, for the most part, they have no choice.

81. The statement that "our system of justice is painstakingly fair" simply would not survive a poll taken of its victims, defendants in criminal cases, law professors, or well-known lawyers such as Gerry Spence or Alan Dershowitz.

82. It is simply not the Court's Constitutional function to assume the role of policy maker or legislator by altering the plain meaning of statutes. Such a function lies solely with the Legislative Branch, which is elected by and accountable to the people. As the Supreme Court has correctly recognized, "[t]he remedy for any dissatisfaction with the results in particular cases lies with Congress and not with this Court. Congress may amend the statute; [the Court] may not." Griffin v. Oceanic Contractors, Inc., 102 S.Ct. 3245, 32534 (1982)

83. This was the precise issue that concerned Alexander

Hamilton when he wrote:

The Courts must declare the sense of the law; and if they should be disposed to exercise **will** instead of **judgement**, the consequence would equally be the substitution of their pleasure to that of the legislative body. The Federalist No. 78 at 396 (Hamilton)

84. Thus, "when a [judge] follows his personal policy predilections he is engaged in something other than the practice of constitutional law. To a very real extent, therefore, a Court that refrains from indulging in the formulation and implementation of policy is essential to the maintenance of constitutional government." Eugene W. Hickok, Jr., On Federalism, III Benchmark 229, 238 (1987).

85. It is imperative, therefore, that judges "identify, respect, and maintain appropriate limits on judicial power..." Lillian R. BeVier, Judicial Restraint: An Argument From Institutional Design, 17 Harvard Journal of Law & Public Policy 7 (1994).

86. Only by adhering to this philosophy will courts "govern according to the rule of law rather than whims of politics and personal preference." Robert Bork, The Tempting of America: The Political Seduction of the Law, 318 (1990).

87. "The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts." West Virginia Board of Education v Barnette, 63 S.Ct. 1178, 1185 (1943).

It is now the settled doctrine of this Court that the Due Process Clause embodies a system of rights based on moral principles so deeply embedded in the traditions and feelings of our people as to be deemed fundamental to a civilized society as conceived by our whole history. Due Process is that which comports with the deepest notions of what is fair and right and just. The more fundamental the beliefs are the less likely they are to be explicitly stated. But respect for them is of the very essence of the Due Process Clause. Solesbee v Balkcom, 338 U.S. 9, 15-16 (1950).

88. Congress cannot, merely by legislating, amend the Constitution. Meyer v United States, 47 S.Ct. 21 (1926).

Congress has expressed its desire that government attorneys comply with state and local federal court rules governing the practice of law. See 28 U.S.C., section 530B(a). These ethical norms not only protect the individual, but also our system of justice within a democracy. In the words of the late Judge Burciaga:

[W]e must understand ethical standards are not merely a guide for the lawyer's conduct, but are an integral part of the administration of justice. Recognizing a Government lawyer's role as a shepherd of justice, we must not forget that the authority of the Government lawyer does not arise from any right of the Government. When a Government lawyer, with enormous resources at his or her disposal, abuses this power and ignores ethical standards, he or she not only undermines the public trust, but inflicts damage beyond calculation to our system of justice. This alone compels the responsible and ethical exercise of power. Matter of Doe, 801 F.Supp. at 479-480; Singleton, 165 F3d at 1314.

89. How much more does this apply to federal judges and prosecutors who abuse their power and ignore ethical standards?

90. Singleton, 165 F.3d at 1302 note 2: "[A] prosecutor who procures false testimony is surely subject to penalty under 18 U.S.C. section 1622."

#### THE SPECIAL GRAND JURY

91. What hope does a mere person have in the face of such dishonesty, despotism, and corruption amongst our government

servants without access to the special grand jury. This was addressed in Congress some seventy years ago:

Mr. LAGUARDIA: Oh gentlemen, every where in history where a privileged class or cruel oppressors have been able to bring about legislation letting down or lessening the protection to and rights of the individual there has been created a judicial system of tyrants becoming more oppressive to the point of becoming unbearable which then causes a breakdown of the whole form of government. Congressional Record, June 3, 1930, Volume 72, page 9988.

92. Part of this court's authority pursuant to both its authority under public policy 18 U.S.C., section 1964(a) and its own innate authority as a federal judge is the authority to convene a federal grand jury. See F.R.Cr.P. 6(a), *United States v Christian*, 660 F2d 892, 900 (3rd Cir. 1981).

#### **THE RICO ENTERPRISE**

93. The RICO enterprise consists of the United States Attorney's Office in Charleston, WV, The United District Court for the Southern District of West Virginia, Internal Revenue Service, Bureau of Alcohol, Tobacco, and Firearms, The United States Treasury Department, The Attorney General of West Virginia, and The West Virginia State Police.

#### **The RICO Conspiracy**

94. The RICO conspiracy consists of hundreds (if not thousands) of predicate acts of the defendants in a pattern of violations of public policies 18 U.S.C., sections 1029, 1343, 1503, 1951, 1957, 1952. See public policy 18 U.S.C. section 1961(1)(B) (definitions)

95. Attorney Rebecca Betts had notice of a NOTICE OF NON-SUBORDINATION and therefore had the means to prevent the arrest,



incarceration of the secured party, and seizing of secured parties private property. In addition, secured parties wife's private property was also seized, which was a substantial amount of money of \$200,00.00 plus she was co-owner of silver bars and coins, and other valuable coins. Also, property from the Ballard Volunteer Fire Department, and some of my friends books and their other literature were also seized. As a UNITED STATES Attorney, Betts knew that the UNITED STATES is not recognized as an entity entitled to do business within the organic state of west Virginia.

96. Darrell V. McGraw, Jr. also had knowledge of secured parties NOTICE OF NON-SUBORDINATION and was responsible for notifying the different agencies of the STATE OF WEST VIRGINIA of any adverse acts against secured party/superior claimant Rodney Eugene Smith. As an trained attorney, McGraw, Jr. knew that the UNITED STATES is not recognized as an entity entitled to do business within the organic state of west Virginia.

97. KAREN L. BLEATTLE as an trained attorney knew or should have known that the UNITED STATES is not recognized as an entity entitled to do business within the organic state of west Virginia.

98. MAURICE G. TAYLOR as a UNITED STATES magistrate judge knew or should have known that the UNITED STATES is not recognized as an entity to do business within the organic state of west Virginia, and should have denied the Criminal Complaint and Arrest Warrant for RODNEY EUGENE SMITH, debtor/strawman.

99. MARY FEINBERG, as a UNITED STATES district court judge knew or should have known that the UNITED STATES is not recognized

as an entity to do business within the organic state of west Virginia and dismissed the charge before her.

100. JAMES D. CRIST as an agent for the UNITED STATES government knew or should have known that the UNITED STATES is not recognized as an entity to do business within the organic state of west Virginia. Further, upon investigation of UCC records which was conducted at the Secretary of States for West Virginia, he should have taken notice that RODNEY E. SMITH or RODNEY EUGENE SMITH is a debtor to the secured party Rodney Eugene Smith and that flesh and blood was the secured party/superior claimant over all property listed on the UCC-1, even the guns, rifles, and handguns.

101. JEFF S. SANDY as an agent for the UNITED STATES government knew or should have know that the UNITED STATES is not recognized as an entity to do business within the organic state of west Virginia.

102. FRANK KLEPADLE as an agent for the UNITED STATES government knew or should have know that the UNITED STATES is not recognized as an entity to do business within the organic state of west Virginia.

103. STEPHEN DEMPSEY as an agent for the UNITED STATES government knew or should have know that the UNITED STATES is not recognized as an entity to do business within the organic state of west Virginia.

104. JASON L. GANDY as an agent for the UNITED STATES government knew or should have know that the UNITED STATES is not recognized as an entity to do business within the organic state of

west Virginia.

105. GARY EDGELL as commander of the WEST VIRGINIA STATE POLICE had notice of NOTICE OF NON-SUBORDINATION and failed to inform, or educate in personnel in their duties thereby causing secured party/superior claimant obstruction of justice and violating his imprescriptible right to be free and enjoy life, liberty, and the pursuit of happiness. EDGELL knew that the UNITED STATES is not recognized as an entity to do business within the organic state of west Virginia.

**RELIEF REQUESTED**

1. That the secured party/superior claimant be allowed to present evidence to a special grand jury, pursuant to the provision of public policy 18 U.S.C., section 3332(a).


2. That this Court convene a <sup>special</sup> grand jury to investigate the crimes complained of herein, pursuant to public policy Federal Rule of Criminal Procedure 6(a).

3. That this Court issue a declaratory judgement, pursuant to public policy 28 U.S.C., section 2201 and 2202 that secured party/superior claimant's property be returned immediately.

4. That this Court issue a declaratory judgement that the defendants cease with any further trespass upon secured party/superior claimant's imprescriptible rights.

5. That the secured party/superior claimant be allowed discovery pursuant to public policy Federal Rules of Civil Procedure 26-37, in order to uncover and document the fraud and conspiracy of the actors in this matter.

DATED: December 26, 2000

  
Rodney Eugene Smith  
Secured Party/Superior Claimant

CERTIFICATE OF SERVICE

On this day of December 26<sup>th</sup>, 2000, a true, correct, and complete copy of a R.I.C.O. PUBLIC POLICY 18 U.S.C. & 1964(a) PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF PUBLIC POLICY 28 U.S.C. & 1331, 2201, and 2202 was sent 1st class postpaid U.S. mail to the following:

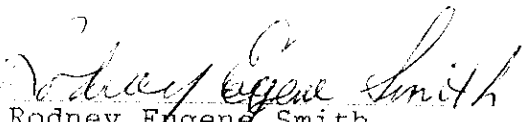
REBECCA BETTS, U.S. Attorney  
P.O. Box 1713  
Charleston, WV, 25332

KAREN L. BLEATNER, A. U.S. A.  
P.O. Box 1713  
Charleston, WV, 25332

MAURICE G. TAYLOR, JR.  
Magistrate Judge  
300 Virginia St. East  
Charleston, WV, 25301

MARY FEINBERG  
U.S.D.C. Judge  
300 Virginia St. East  
Charleston, WV, 25301

DARREL V. MCGRAW, JR.  
Attorney General  
P.O. Box 1789  
Charleston, WV, 25305

  
Rodney Eugene Smith  
Secured Party/Superior Claimant

This FINANCING STATEMENT is presented to a filing officer for filing pursuant to the Uniform Commercial Code.		3. Maturity date (if any):
1. Debtor(s) (Last Name First) and address(es) SMITH, RODNEY E. C/O HC 77, BOX 546 BALLARD, WV, 24918 DEBTOR IS A TRANSMITTING UTILITY Tax ID/Social Security No. 177 30 8459	2. Secured Party(ies) and address(es) Rodney Eugene, Smith C/O HC 77, Box 546 Ballard, West Virginia, 24918 Employer ID # 177 30 8459 Tax ID/Social Security No.	For Filing Officer (Date, Time, Number, and Filing Office)  0539504 00 MAY 11 AM 10:59  SEE ATTACHED FOR STATE FILED
4. This financing statement covers the following types (or items) of property: ADDITIONAL DEBTORS DEBTOR IS A TRANSMITTING UTILITY. Item 1 AKA Rodney, ROD. The entry of the Debtor, SMITH, RODNEY E., in the Commercial Registry and the following property: Pennsylvania Birth Cert. # 730716, File # 152 310-37; & PA Birth Cert. # 9509807, File # 1523100-37; Treasury Direct Number 177 30 8459; all property on this form and attachment thereto is accepted for value and is exempt from levy. Adjustment of this filing is from Public Policy HJR-192 and UCC 10-104. All proceeds, products, accounts, and fixtures, and the Orders therefrom are released to Debtor. Other Property is as follows: Deed to property as recorded in Monroe County INST # 37619, date 9-21-90, Book 189, (see continuation)		5. Assignee(s) of Secured Party and Address(es) <i>Attachment</i>
This statement is filed without the debtor's signature to perfect a security interest in collateral. (Check <input checked="" type="checkbox"/> if so) <input type="checkbox"/> already subject to a security interest in another jurisdiction when it was brought into this state. <input type="checkbox"/> which is proceeds of the original collateral described above in which a security interest was perfected. Check <input checked="" type="checkbox"/> if covered: <input checked="" type="checkbox"/> Proceeds of Collateral are also covered. <input checked="" type="checkbox"/> Products of Collateral are also covered. No. of additional Sheets presented:		Filed with: SECRETARY OF STATE, STATE OF WEST VIRGINIA UCC DIVISION
By: <i>Smith, Rodney E.</i> Signature(s) of Debtor(s)		By: <i>Rodney Eugene Smith</i> Signature(s) of Secured Party(ies)
(1) Filing Officer Copy - Alphabetical		001 k \$18.00 05/11/2000 93442

STANDARD FORM - FORM UCC-1.

539504

## CONTINUATION OF ITEM #, UNIFORM COMMERCIAL CODE FORM UCC-1, #02497

at page 554; and deed under file 39471, date 6-12-91, Monroe County Misc. book; all fixtures such refrigerators, freezers, fans, air conditioners, chairs, tables, dishes, utensils, washers, dryers, farm tools, farm equipment, other tools of all sorts, wood splitter, 14foot boat with 15 HP Johnson motor, fuel tanks and barrels, beds, bedroom furniture, lamps, one cylinder diesel generator, lawn mower from 14HP, Loews, and all other fixtures located within property on Deed 37619 and 39471; Appraisal from Drue Sanders Gold & Silvermiths, LTD; Certificate from Government of District of Columbia; Battle Mountain Gold Co. stock # BMG58172; Terra Mines LTD, stock # 43667; Sunshine Mining and Refining Co., stock # DX 363303; Mercana Industries Ltd., stock # 02189; Adela-Loeb Jewelers 14k gold, diamond ring; ladies 14k white gold tiffany solitaire diamond ring; Appraisal of Drue Sanders Gold & Silvermiths, LTD, pearl necklace; Insurance Policy, Uniform Services Benefit Association; Marriage License, State of Wyoming # 756746; BONNIE L. SMITH, wife, SSN 197-30-4100; 1996 Buick ID # 1G4AG55M2T6474280; 1977 Dodge Crusiermaster, ID # F33BE7W017956; Buick and Dodge in BONNIE L. SMITH'S name; 1991 Dodge Dakota #1B7GG26X6MS202880; all 'baggage', see Bouvier's Law Dictionary; military service # 13539193 or 177-30-8459; a .22 caliber pistol, 1j Target sealed 8; 1 30-06 Westerfield rifle; 1 short barrel .22 semi-automatic rifle; 1 30-30 lever action rifle; 1 Winchester 12 gauge fiber glass barrel shotgun; 1 410 gauge bolt action Mossberg shotgun, 1 long barrel Savage (antique) .22 caliber rifle; 1 .357 caliber Taurus pistol; and numerous fishing rods and reels with associated equipment. Bonnie L. Smith bank account, The First National Bank, Peterstown, account # 051503051 01 8871 9; Master Card account # 5329 0104 4601 1159; U.S. Government Motor Vehicle Operator's ID # 72-1574. NORTH CAROLINA TRAFFIC CITATION C9759456-2, Debtor SAMUEL G. BALL, JR., DBA Hendersonville, NC Police Officer; City of Hendersonville, NC; Mayor of Hendersonville, NC; District Attorney Hendersonville, NC; and other legislative & executive officers of Hendersonville, NC; USDC, Northern Dist. of NY, case # 92-CR-262; USDC Southern Dist. of WV, case 92-2124-M; USDC Southern Dist of WV, case 1:91-0501; US Court of Appeals for 2nd Ct., Case 93-1013; USDC Southern Dist of WV, case 95-1096; Circuit Court Monroe County, WV case 98-C-14; Supreme Ct. of Appeals # 98-2182; Bell Atlantic Account # 304 753 5208 039 22; AT&T account 304 753 5208; EXCEL account # PGK4MHO; Executor of estate of Susan W. Smith; Chester Roy Smith, Commonwealth of Pa., file # 1595310-1916, Misc. Book; Birth Cert. # State of FL # 5644612; Susan W. Smith Birth Cert. # 0044370-1918, death Cert. # 4242225 Commonwealth of PA; all timber, oil, gas, mineral rights of allodial property of Rodney & Eugene, & Bonnie Lee Smith; The First National Bank account # 051503051 01 8871 9; property Dist 2, Map 21, Parcel 08900, lot 13A, County Rd, Subdiv. My Mt. Top, Grainger County, TN; Dept. of US Treasury Certified Account 307 014 913; and the following Debtors:

Williams, Randall  
Monroe County Ct. House  
Union, WV, 24983  
inv # 0026 0967 2766

Hallanan, Elizabeth  
P.O. Box 2546  
Charleston, WV, 25329  
inv # 0026 0967 2759

SNYDER, EDWARD J.  
P.O. Box 227, Franklin Sta.  
Washington, DC, 20044  
Inv # 0026 0967 2742

MISCELLANEOUS Clerk 01  
Date/Time: 12/22/2000 09:37  
Inst #: 7272  
Book/Page: 2- / 261-  
Recd/Tax: 2.00 .00

Rodney Eugene Smith  
Secured Pary/Superior Claimant  
C/O HC 77, Box 546  
Ballard, West Virginia, [24918]

FILE

DEC 26 2000

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
at BLUEFIELD  
[Case No. 1:00-M-0097 and 1:00-M-0098]

UNITED STATES OF AMERICA )

v )

RODNEY EUGENE SMITH )

NOTICE OF DENIAL OF  
CORPORATION EXISTENCE

FOR AND ON THE RECORD, TAKE MANDATORY  
JUDICIAL NOTICE OF THE FOLLOWING

AFFIDAVIT OF DENIAL OF CORPORATION EXISTENCE

I, Rodney Eugene: Smith, hereinafter Affiant, a living breathing man with sententia moral existence declare in my own hand writing and by own authority and invoking the "instrumentality rule" piecing the "corporate vale rule" also; in the first instance upon discovery of the nature and cause of any debt, duty, claim, or other obligation, the following facts are true correct certain complete to the best of my knowledge under penalty of perjury of the law of The state of west Virginia TO WIT:

1. My name is Rodney Eugene Smith. Rodney is spelled capital R, small o, d, n e, y. Eugene is spelled capital E, small u, g, e, n, e. Smith is spelled capital S, small m, i, t, h.

2. I, Affiant, hereby deny that the following corporation, defacto or otherwise, ultra virus multiple corporation or "nul charter" exists: UNITED STATES; UNITED STATES OF AMERICA, THE STATE OF WEST VIRGINIA; STATE OF WEST VIRGINIA; MAURICE G. TAYLOR, JR.,



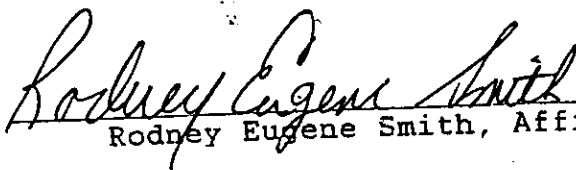
JEFF S. SANDY, JAMES E. CRIST, JASON L. GANDEE, JAMES D. HARPER, KAREN L. BLEATTLE, TERESA DOWDY, MARY I or D FEINBERG, C. VANCE, and all other corporate members who are or may be associated with any debt, duty, claim, or other obligation against my natural body or incorporeal hereditaments of person nul tiel Rodney Eugene Smith the explicit reservation of rights pursuant to Article 10 in Amendment the Constitution of the People of the 50 several united States of America effective September 17, 1787 anno Domini and December 15, 1791 anno Domini. Remitter shall be effected by the same manner and to the same extent and proper affidavit form duly notarized under penalty of perjury using a lawful given name and surname of the remitter to include evidence, incontrovertible, addressed to Affiant at his geographical return mailing location within 72 hours of receipt thereof or nil dicit judgment, i.e. judgment of confession will be obtained.

3. Furthermore, the creation documents for the above named entities have not been made part of the record of Case 1:00-M-0097 and 1:00-M-0098.

4. The signers of documents relative to the fictions named above, and relative to Case 1:00-M-0097 and 1:00-M-0098, have acted in their personal capacities, and have failed to state a claim upon which relief can be granted.

5. This affidavit stands as truth in commerce until properly rebutted.

Dated: December 22, 2000 anno Domini

  
Rodney Eugene Smith, Affiant

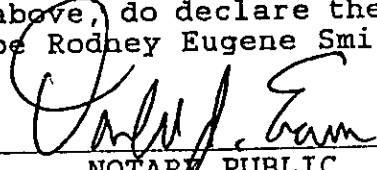


state of West Virginia)

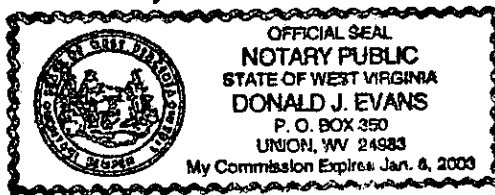
Monroe county )

ss ACKNOWLEDGMENT

For the purpose of verification of signature, I, the undersigned Notary Public, being commissioned in the county noted above, do declare the one known to me to be, or who proved to me to be Rodney Eugene Smith did execute this document before me.

  
NOTARY PUBLIC

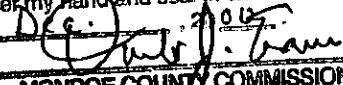
Jan 6, 2003  
My Commission Expires



STATE OF WEST VIRGINIA  
COUNTY OF MONROE, TO WIT:

I, DONALD J. EVANS, Clerk of the County Commission of Monroe County, do hereby certify that the foregoing and hereto annexed writing is a true copy of a Affidavit as found on record at this office in Misc. Book No. 2 at Page No. 261.

Given under my hand and seal of said commission this the 22 day of Dec. 2002.

  
CLERK  
MONROE COUNTY COMMISSION  
By \_\_\_\_\_ Deputy

RECEIVED COUNTY CLERK  
MISCELLANEOUS Clerk 03  
Date/Time: 12/21/2000 15:41  
Inst #: 7271  
Book/Page: 2- / 258-  
Recd/Tax: 2.00 .00

Rodney Eugene Smith  
Secured Pary/Superior Claimant  
C/O HC 77, Box 546  
Ballard, West Virginia, [24918]

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
at BLUEFIELD  
[Case No. 1:00-M-0097 and 1:00-M-0098]

UNITED STATES OF AMERICA )  
 )  
 v ) NOTICE OF NON-SUBORDINATION  
 )  
RODNEY EUGENE SMITH )

FOR AND ON THE RECORD, TAKE MANDATORY  
JUDICIAL NOTICE OF THE FOLLOWING

state of west Virginia )  
 ) ss AFFIDAVIT  
Monroe county )

Having been duly sworn, Rodney Eugene Smith, hereinafter  
Affiant, declares the following:

1. Affiant is competent to state to the matters included in this declaration.
2. Affiant has knowledge of the facts.
3. Affiant, a living breathing man, declares that to the best of my knowledge the statements made in this AFFIDAVIT are true, correct, and complete, and not meant to deceive.
4. Affiant is the Secured PartySuperior Claimant and Affiant's name is Rodney Eugene Smith and is spelled capital R small letter o, d, n, e, y; Eugene is spelled capital E small letters u, g, e, n, e; Smith is spelled capital S, small letters m i t h.

5. Affiant is a third party with an interest relating to the property which is the subject of the action identified above, and am so situated that the disposition of said action may as a practical matter impair or impede my ability to protect Affiant's interest, as Affiant's interest are not adequately represent by the existing parties to said action. This situation is in the nature of that which is described in Federal Rules of Civil Procedure at Rule 24.

6. Affiant is the Secured Party/Superior Claimant and Holder in Due Course of all property held in the name of RODNEY E. SMITH or RODNEY EUGENE SMITH. Evidence of my Superior Claim, properly filed UCC-1 Financing Statement # 0539504 filed 00MAY11 AM10:59, is attached to this Notice.

7. Directing your attention to Article 9-339 and 9-402 of Gould Publications Inc., Uniform Commercial Code, 8th edition and West Virginia Statutes 46-9-316 and 46-9-317, Rodney Eugene Smith hereby gives notice that Affiant has not, does not, and will not voluntarily subordinate my priority and superior claimant position to this court, or any other person involved in this matter; nor does Affiant accept a contract or tort liability for the acts or omissions of RODNEY E. SMITH, RODNEY EUGENE SMITH, or Rodney E. Smith.

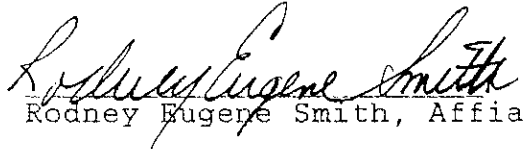
8. Affiant does not consent to be accused of acting as surety for, guarantor for, beneficiary for, nor signing by accommodation for RODNEY E. SMITH, RODNEY EUGENE SMITH, or Rodney E. Smith. Affiant does not consent to be held liable for the civil or criminal actions that may be or may have been charged against

RODNEY E. SMITH, RODNEY EUGENE SMITH, or Rodney E. Smith.

9. All presumptions of subordination of my priority and superior claimant position are void, unless Affiant has given written agreement with a notarized signature specifically agreeing to the subordination.

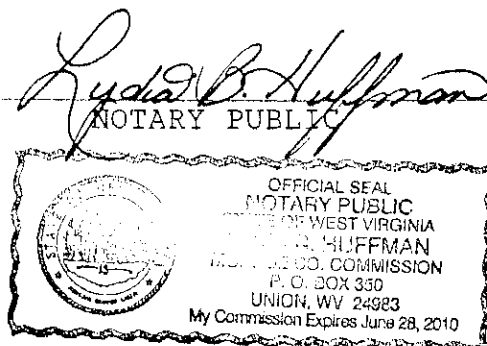
FURTHER AFFIANT SAYETH NOT.

Dated this 21<sup>st</sup> day of December 2000 anno Domini

  
Rodney Eugene Smith, Affiant

state of west Virginia     )  
  ) ss     ACKNOWLEDGEMENT  
Monroe county                    )

For the purpose of verification of signature, I, the undersigned Notary Public, being commissioned in the county noted above, do declare the one known to me to be, or who proved to me to be Rodney Eugene Smith did executed this document before me.



6-28-2010  
My Commission expires

STATE OF WEST VIRGINIA  
COUNTY OF MONROE, TO WIT:

I, DONALD J. EVANS Clerk of the County Commission of Monroe County, do hereby certify that the foregoing and hereto annexed writing is a true copy of a Notarized Affidavit as found of record at this office in Book 2 at Page No. 258

Given under my hand and said commission this the 21 day of December

  
CLERK  
MONROE COUNTY COMMISSION  
By [Signature] Deputy